



**US Army Corps
of Engineers®**
New England District

PUBLIC NOTICE

696 Virginia Road
Concord, MA 01742-2751

Date: 7 April 2009
Comment Period Ends: 8 May 2009
File Number: NAE 2008-00272
In Reply Refer To: Mr. Brian Valiton
Or by e-mail: brian.e.valiton@usace.army.mil

The District Engineer has received a permit application from the applicant below to **retain and maintain existing structures and to conduct work, including a small amount of new dredging, in waters of the United States** as described below.

APPLICANT: B.K. Enterprises, Inc. d/b/a Oyster River Boat Yard, 82 Jericho Lane, Chatham, Massachusetts 02669

ACTIVITY: This is to retain and maintain various existing structures and to do new work, including dredging, as a part of the existing marina operation in Chatham, Massachusetts. This includes retaining existing pile-anchored and bottom moored floating docks, 25 double vessel moorings, an existing 18' by 51' boat ramp at the downstream end of the marina parcel, all in Oyster Pond River. The work also includes retaining and maintaining 3 existing single vessel moorings in Stage Harbor. Future work being proposed includes a small amount of new dredging (approx. 40 cu. yds. of sand from an area of approx. 500 sq. ft.), with upland disposal of the material and to establish a zone of reconfiguration around the existing pile-anchored floating docks connected to shore at the marina facility on Oyster Pond River. The existing structures that are the subject of this application were not previously authorized by the Corps of Engineers. A detailed description and plans of the activity are attached.

WATERWAY AND LOCATION OF THE PROPOSED WORK

This work is primarily located in Oyster Pond River near the applicant's marina at 82 Jericho Lane, Chatham, Massachusetts with three of the existing moorings in Stage Harbor. The location of the work is on the USGS Chatham quadrangle sheet, zone 19, at UTM coordinates 4613850.00 N and 0417900.00 E. The detailed coordinates and locations of the moorings are shown on the attached drawings.

AUTHORITY

Permits are required pursuant to:

- ☒ Section 10 of the Rivers and Harbors Act of 1899
- ☐ Section 404 of the Clean Water Act
- ☐ Section 103 of the Marine Protection, Research and Sanctuaries Act).

The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which may reasonably accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered, including the cumulative effects thereof; among those are: conservation, economics, aesthetics, general environmental concerns, wetlands, cultural value, fish and wildlife values, flood hazards, flood plain value, land

use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Where the activity involves the discharge of dredged or fill material into waters of the United States or the transportation of dredged material for the purpose of disposing it in ocean waters, the evaluation of the impact of the activity in the public interest will also include application of the guidelines promulgated by the Administrator, U.S Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act, and/or Section 103 of the Marine Protection Research and Sanctuaries Act of 1972 as amended.

ESSENTIAL FISH HABITAT

The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996 (Public Law 104-267), requires all federal agencies to consult with the National Marine Fisheries Service on all actions, or proposed actions, permitted, funded, or undertaken by the agency, that may adversely affect Essential Fish Habitat (EFH).

The dredging portion of this project will impact approximately 500 SF of (EFH) for Atlantic butterfish (eggs, larvae, juveniles, adults), Atlantic cod (eggs, larvae, juveniles, adults), haddock (juveniles, adults), pollock (larvae, juveniles, adults), whiting (eggs, larvae, juveniles, adults), red hake (larvae, juveniles, adults), white hake (eggs, larvae, juveniles, adults), redfish (larvae, juveniles, adults), witch flounder (eggs, larvae, juveniles, adults), yellowtail flounder (adults), American plaice (adults), ocean pout (eggs, larvae, juveniles, adults), Atlantic halibut (eggs, larvae, juveniles, adults), Atlantic sea scallop (eggs, larvae, juveniles, adults), Atlantic sea herring (juveniles, adults), monkfish (eggs, larvae, juveniles, adults), bluefish (adults), Atlantic mackerel (eggs, larvae, juveniles, adults), winter flounder (eggs, larvae, juveniles, adults), windowpane flounder (adults), summer flounder (eggs, larvae, juveniles, adults), scup (juveniles, adults), black sea bass (larvae, juveniles, adults), bluefin tuna (juveniles, adults), blue shark (adults), tilefish (eggs, larvae, juveniles, adults), and spiny dogfish (juveniles, adults). Habitat at this site can be described as sandy bottom. Loss of this small amount of habitat is not anticipated to have any adverse effect on any of the above listed species. The dredging will only be done in accordance with appropriate time of year restriction to further insure that there are no adverse impacts on any of the species or their life stages. Therefore, the District Engineer has made a preliminary determination that the site-specific adverse effect will not be substantial. Further consultation with the National Marine Fisheries Service regarding EFH conservation recommendations is being conducted and will be concluded prior to the final decision.

The moorings and the vessels anchored to them occupy approx. 127,000 sq. ft. of the Oyster Pond River with the mooring blocks occupying approx. 625 sq. ft. of the River bottom and the floating docks connected to shore

occupying approx. 2700 sq. ft. of the Oyster Pond River. The moorings in Stage Harbor and the vessels moored to them occupy an aquatic area of approximately 7500 sq. ft. The structures in the Oyster Pond River are in a portion of the River which was mapped by MA DEP in 1995 as containing extensive eelgrass resource areas. However, the applicant's consultants assessed existing eelgrass resources in this section of the River as part of the information gathered for this application and determined that there was currently only one small area of eelgrass in this section of the River. An EFH assessment (dated March 23, 2009) was prepared that concluded that the applicant's floating structures, including the moorings, are not having any effect on any existing eelgrass resources and will not have any future adverse effect on the existing eelgrass resource areas remaining in the River. The River bottom in the vicinity of the floating structures and anchors consists predominantly of unvegetated muddy silty bottom as well as medium to fine sands. In light of this assessment the District Engineer has made a preliminary determination that the site-specific adverse effect will not be substantial. Further consultation with the National Marine Fisheries Service regarding EFH conservation recommendations is being conducted and will be concluded prior to the final decision.

Based on his initial review, the District Engineer has determined that little likelihood exists for the proposed work to impinge upon properties with cultural or Native American significance, or listed in, or eligible for listing in, the National Register of Historic Places. Therefore, no further consideration of the requirements of Section 106 of the National Historic Preservation Act of 1966, as amended, is necessary. This determination is based upon one or more of the following:

- a. The permit area has been extensively modified by previous work.
- b. The permit area has been recently created.
- c. The proposed activity is of limited nature and scope.
- d. Review of the latest published version of the National Register shows that no presence of registered properties listed as being eligible for inclusion therein are in the permit area or general vicinity.
- e. Coordination with the State Historic Preservation Officer and/or Tribal Historic Preservation Officer(s)

The States of Connecticut, Maine, Massachusetts, New Hampshire and Rhode Island have approved **Coastal Zone Management Programs**. Where applicable the applicant states that any proposed activity will comply with and will be conducted in a manner that is consistent with the approved Coastal Zone Management Program. By this Public Notice, we are requesting the State concurrence or objection to the applicant's consistency statement.

The following authorizations have been applied for, or have been, or will be obtained:

- (X) Permit, License or Assent from State.
- (X) Permit from Local Wetland Agency or Conservation Commission.
- () Water Quality Certification in accordance with Section 401 of the Clean Water Act.

In order to properly evaluate the proposal, we are seeking public comment. Anyone wishing to comment is encouraged to do so. **Comments should be submitted in writing by the above date.** If you have any questions, please contact Mr. Brian Valiton at (978) 318-8166, (800) 343-4789 or (800) 362-4367, if calling from within Massachusetts.

CENAE-R
FILE NO. NAE-2008-00272

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Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for a public hearing shall specifically state the reasons for holding a public hearing. The Corps holds public hearings for the purpose of obtaining public comments when that is the best means for understanding a wide variety of concerns from a diverse segment of the public.

The initial determinations made herein will be reviewed in light of facts submitted in response to this notice. All comments will be considered a matter of public record. Copies of letters of objection will be forwarded to the applicant who will normally be requested to contact objectors directly in an effort to reach an understanding.

For more information on the New England District Corps of Engineers programs, visit our website at <http://www.nae.usace.army.mil>.

THIS NOTICE IS NOT AN AUTHORIZATION TO DO ANY WORK.



Karen K. Adams
Chief, Permits and Enforcement Branch
Regulatory Division

If you would prefer not to continue receiving Public Notices, please contact Ms. Tina Chaisson at (978) 318-8058 or e-mail her at bettina.m.chaisson@usace.army.mil. You may also check here () and return this portion of the Public Notice to: Bettina Chaisson, Regulatory Division, U.S. Army Corps of Engineers, 696 Virginia Road, Concord, MA 01742-2751.

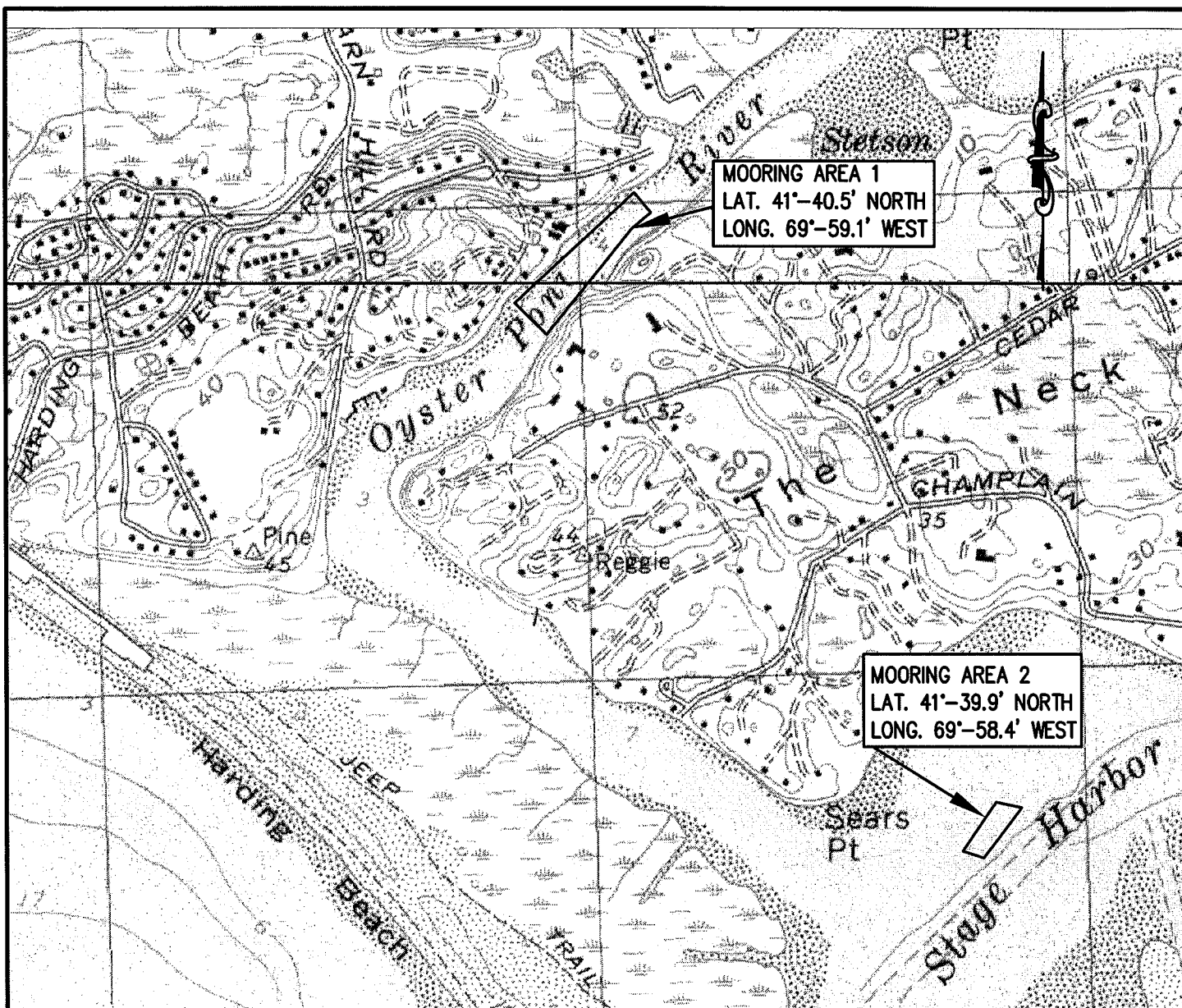
NAME: _____
ADDRESS: _____

PROPOSED WORK AND PURPOSE

The work that is the subject of this application includes work in the navigable waters for the retention and maintaining of existing structures, including moorings in both Oyster Pond River and Stage Harbor, to perform a small amount of new dredging with upland disposal and to establish a zone of reconfiguration around the docks at this marina that are connected to shore. This is all part of an existing commercial marina operation that has been operating for decades at this location. Corps permits were issued in the 1960's to Mr. Robert Chrystie authorizing the existing docks that are connected to the shore that are part of this on-going operation. The specific work that is the subject of this application includes the following:

- a. 25 existing double vessel mooring floats consisting of either a 4' by 24' float attached to a 2000 lb concrete block or a 4' by 20' float attached to a 2000 lb concrete block. Each block is approx. 5' by 5';
- b. 3 existing single vessel moorings in Stage Harbor each attached to a concrete block mooring (of various weights from 2000 lbs to 4000 lbs). The size of the blocks is up to about 6' by 6';
- c. a total of 838 square feet of existing pile-anchored floating docks that are part of the existing dock system that is attached to the shore. This item of work includes pile-anchored floats added to the previously permitted dock system to expand it slightly. The detailed floating docks that are the subject of this action are shown on Sheet 2 of 11 of the attached drawings referenced below. It includes a total of three 4' by 20' floats, one 10' by 31' float, one 2' by 24' float, two 3' by 20' floats, and a total of five float extensions 3' by 8' on the upstream end of the main float system;
- d. to retain and maintain the existing boat ramp that is 18' by 51' and is at the downstream property boundary;
- e. to dredge, with upland disposal of the material, an area of sand totalling 500 sq. ft. in size to a depth of -2 feet m.l.w. (total of approx. 40 cu. yds.);
- f. to establish a zone of reconfiguration around the existing shore connected dock system.

The work is described on the enclosed plans entitled "PURPOSE: TO MAINTAIN AN EXISTING MARINA FACILITY INCLUDING PERMANENT STRUCTURES AND SEASONAL FLOATS, RAILS, MAINTENANCE DREDGING, MOORINGS AND FLOATS, AND ZONE OF RECONFIGURATION IN OYSTER RIVER, CHATHAM, BARNSTABLE COUNTY, MA APPLICATION BY: B.K. ENTERPRISES D.B.A. OYSTER RIVER BOATYARD", on 11 sheets, and dated "January 11, 2008 and revised on September 24, 2008."

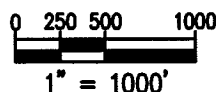


CHATHAM QUADRANGLE

COORDINATE SYSTEM USED IS NAD83 MASS
STATE PLANE (FEET)

REF: CHATHAM ASSESSOR'S MAP 10C, PARCEL 3

PLAN



DRAWING C13768-c91.dwg
DRAWN BY: KES
C13768.00

PURPOSE:
TO MAINTAIN AN EXISTING MARINA
FACILITY INCLUDING PERMANENT
STRUCTURES AND SEASONAL FLOATS,
RAILS, MAINTENANCE DREDGING,
MOORINGS AND FLOATS, AND ZONE OF
RECONFIGURATION IN OYSTER RIVER,
CHATHAM, BARNSTABLE COUNTY, MA

REVISED SEPTEMBER 24, 2008

VICINITY MAP AND MOORING AREA LOCUS

APPLICATION BY:
B.K. ENTERPRISES D.B.A
OYSTER RIVER BOATYARD

PREPARED BY
COASTAL ENGINEERING CO., INC.
260 CRANBERRY HIGHWAY
ORLEANS, MA 02653

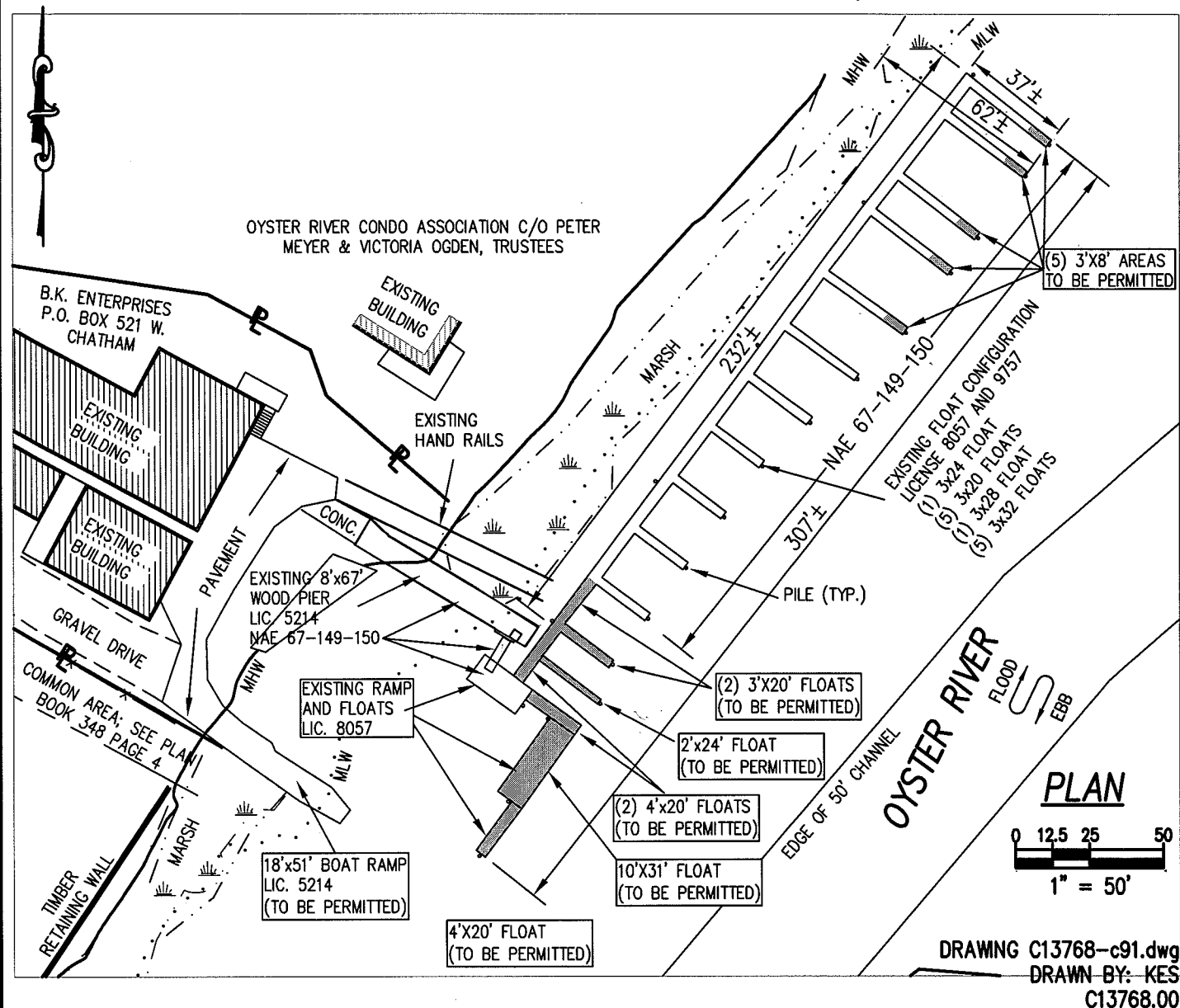
~~JANUARY 11, 2008~~

SHEET 1 OF 11

REFERENCE DATUM IS MEAN LOW WATER=0.0
 FEMA DATUM IS N.G.V.D.

REF: CHATHAM ASSESSOR'S MAP 10C PARCEL 3
 DEP LICENSE PLAN NO. 8057
 DEP LICENSE PLAN NO. 9757

SEE SHEET 3 FOR PROPOSED DREDGING AREA
 SEE SHEET 4 FOR PROPOSED ZONE OF RECONFIGURATION
 SEE SHEETS 5-7 FOR EXISTING MOORING AREAS.
 TOTAL FLOAT AREA = 2,711 s.f.



PURPOSE:
 TO MAINTAIN AN EXISTING MARINA
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 RAILS, MAINTENANCE DREDGING,
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 CHATHAM, BARNSTABLE COUNTY, MA

REVISED SEPTEMBER 24, 2008

EXISTING MARINA

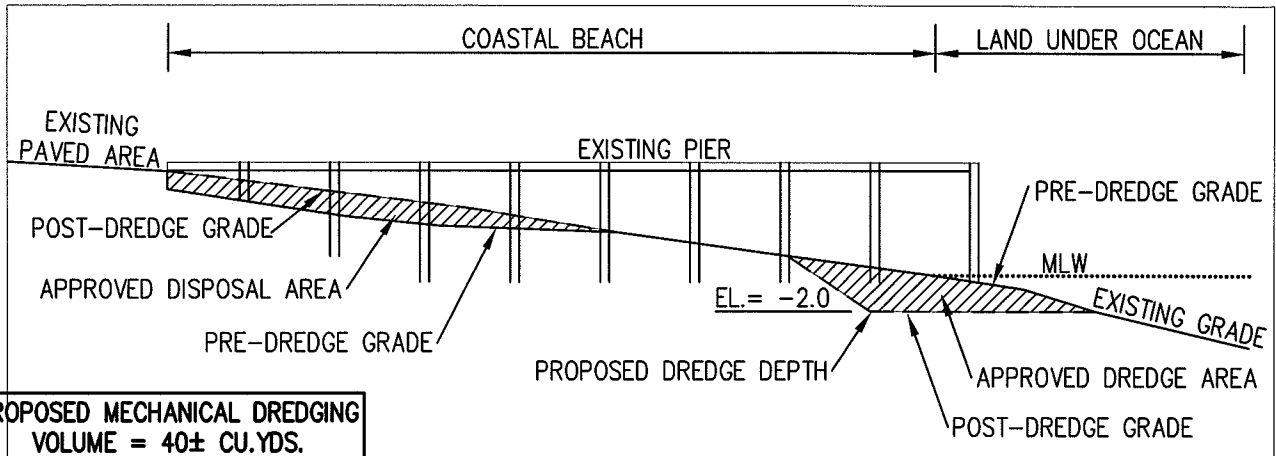
APPLICATION BY:
 B.K. ENTERPRISES D.B.A
 OYSTER RIVER BOATYARD

PREPARED BY
 COASTAL ENGINEERING CO., INC.
 260 CRANBERRY HIGHWAY
 ORLEANS, MA 02653

JANUARY 11, 2008

SHEET 2 OF 11

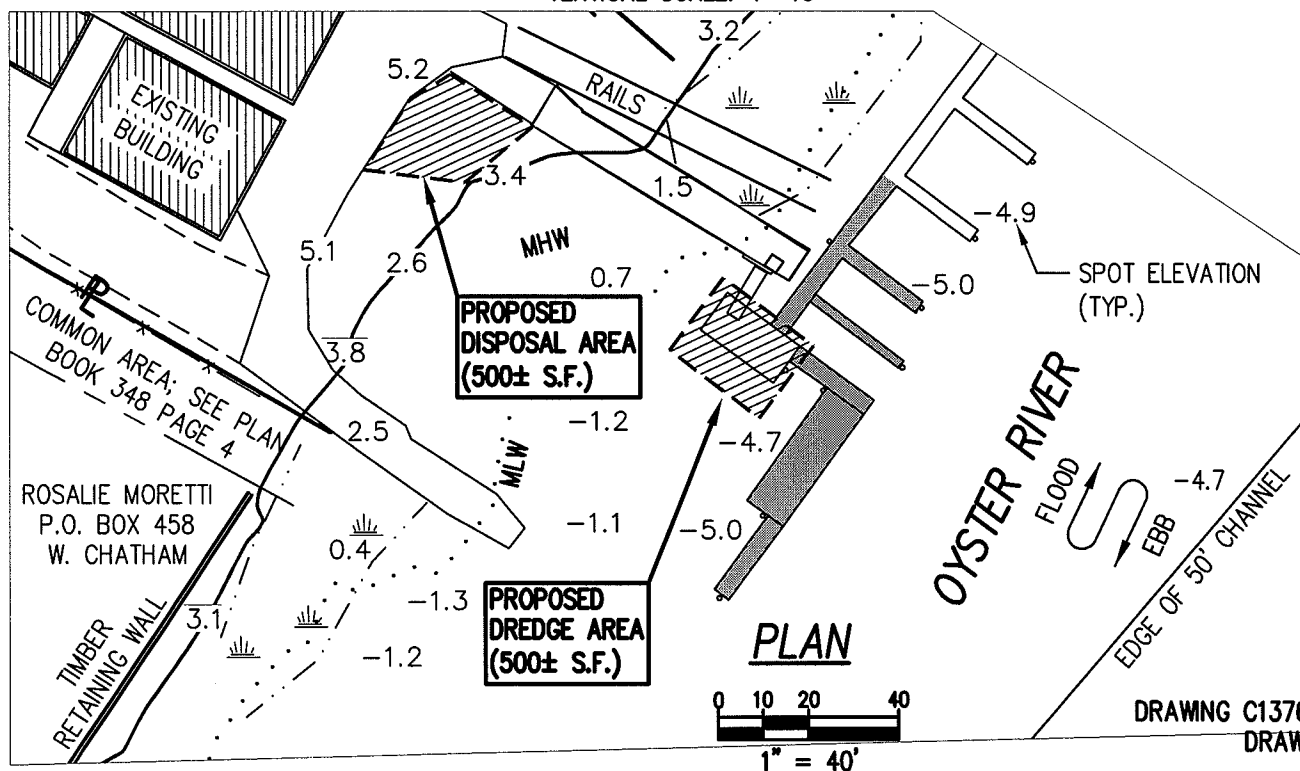
ELEVATIONS ARE BASED ON MLW DATUM



DREDGE PROFILE

HORIZONTAL SCALE: 1"=20'

VERTICAL SCALE: 1"=10'



DRAWING C13768-c91.dwg
DRAWN BY: KES
C13768.00

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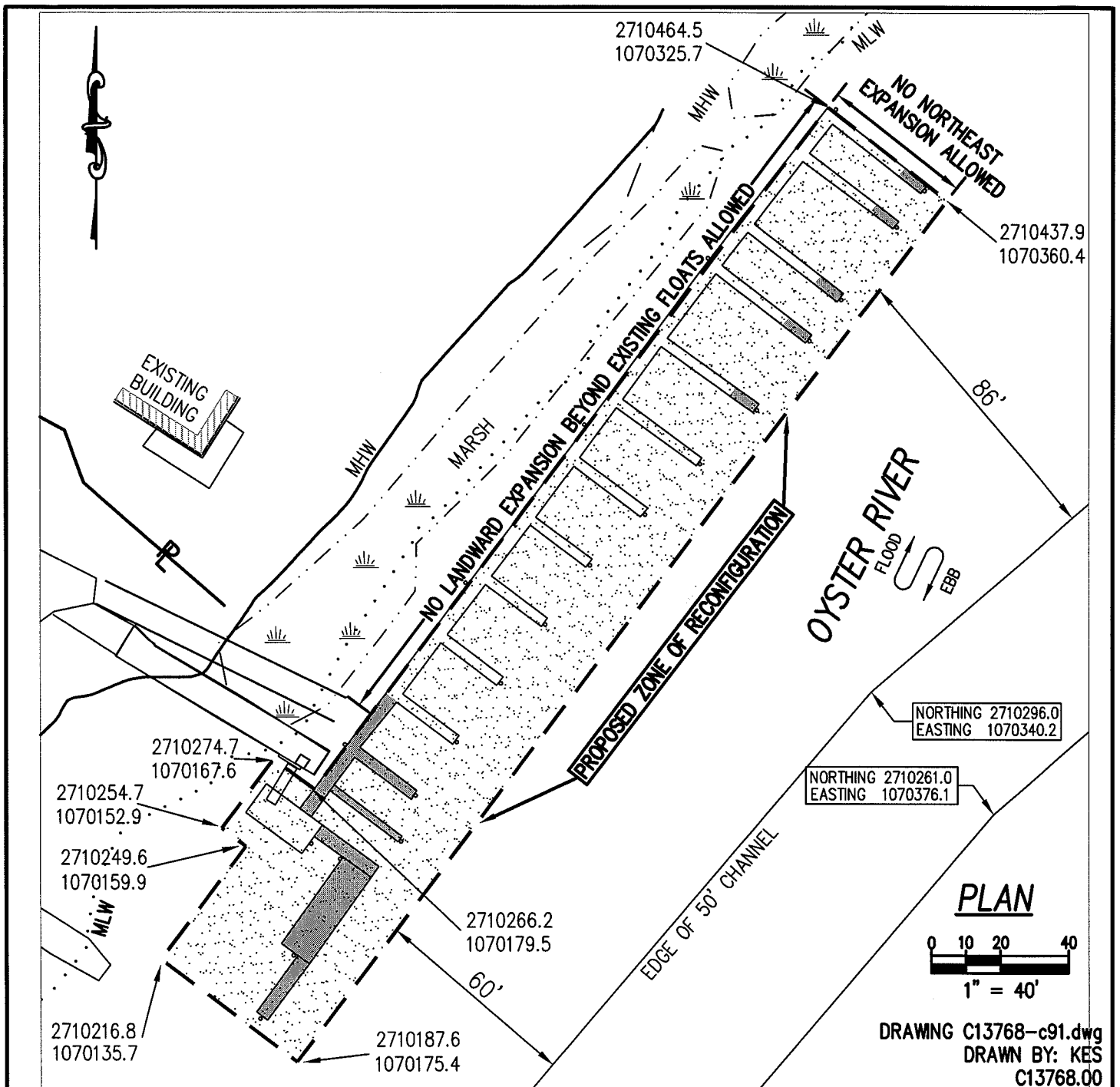
DREDGE DETAIL

APPLICATION BY:
B.K. ENTERPRISES D.B.A
OYSTER RIVER BOATYARD

PREPARED BY
COASTAL ENGINEERING CO., INC.
260 CRANBERRY HIGHWAY
ORLEANS, MA 02653

JANUARY 11, 2008

SHEET 3 OF 11



PURPOSE:
TO MAINTAIN AN EXISTING MARINA
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REVISED SEPTEMBER 24, 2008

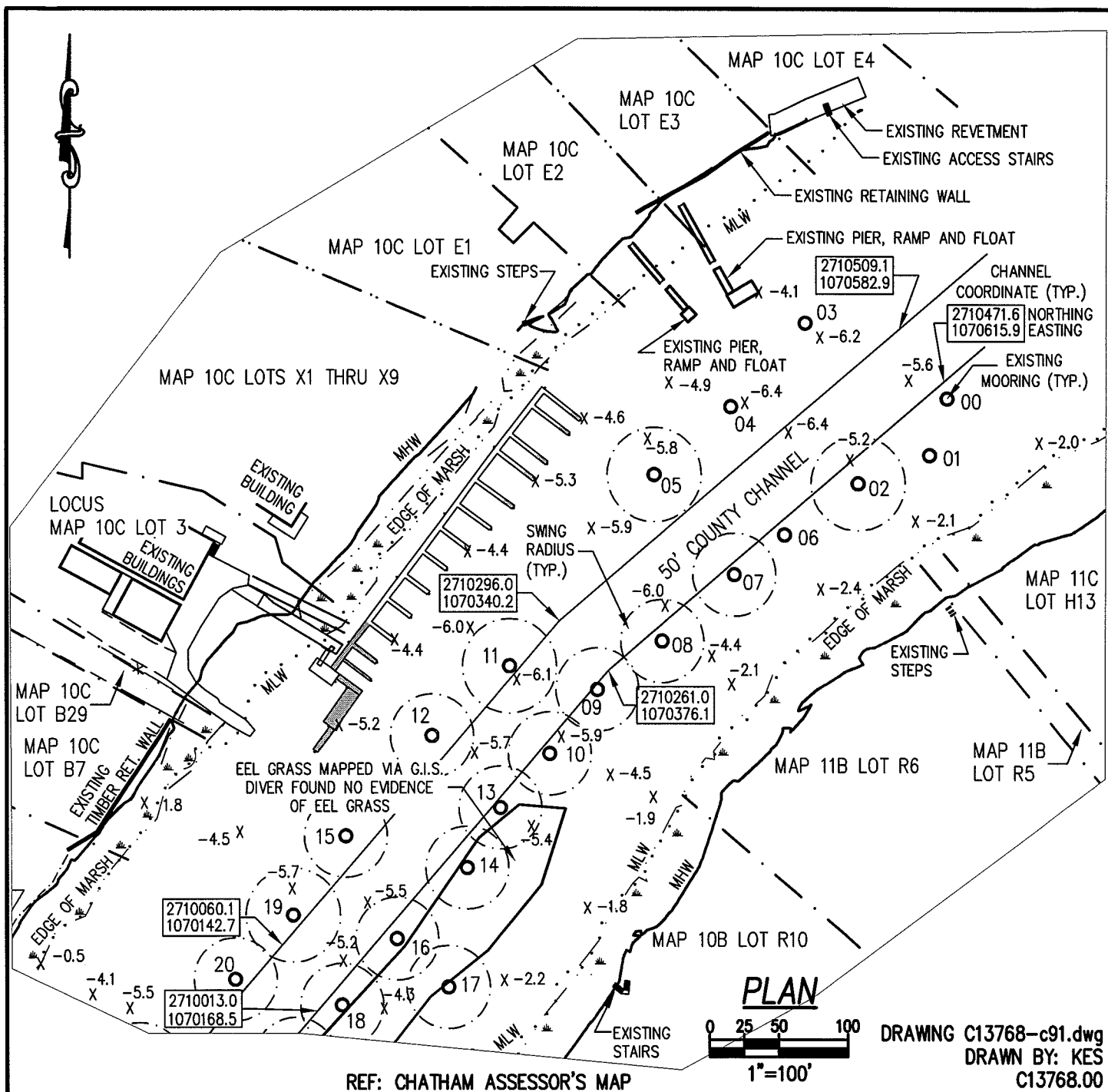
RECONFIGURATION ZONE DETAIL

APPLICATION BY:
B.K. ENTERPRISES D.B.A
OYSTER RIVER BOATYARD

PREPARED BY
COASTAL ENGINEERING CO., INC.
260 CRANBERRY HIGHWAY
ORLEANS, MA 02653

JANUARY 11, 2008

SHEET 4 OF 11



PURPOSE:
TO MAINTAIN AN EXISTING MARINA
FACILITY INCLUDING PERMANENT
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RAILS, MAINTENANCE DREDGING,
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CHATHAM, BARNSTABLE COUNTY, MA

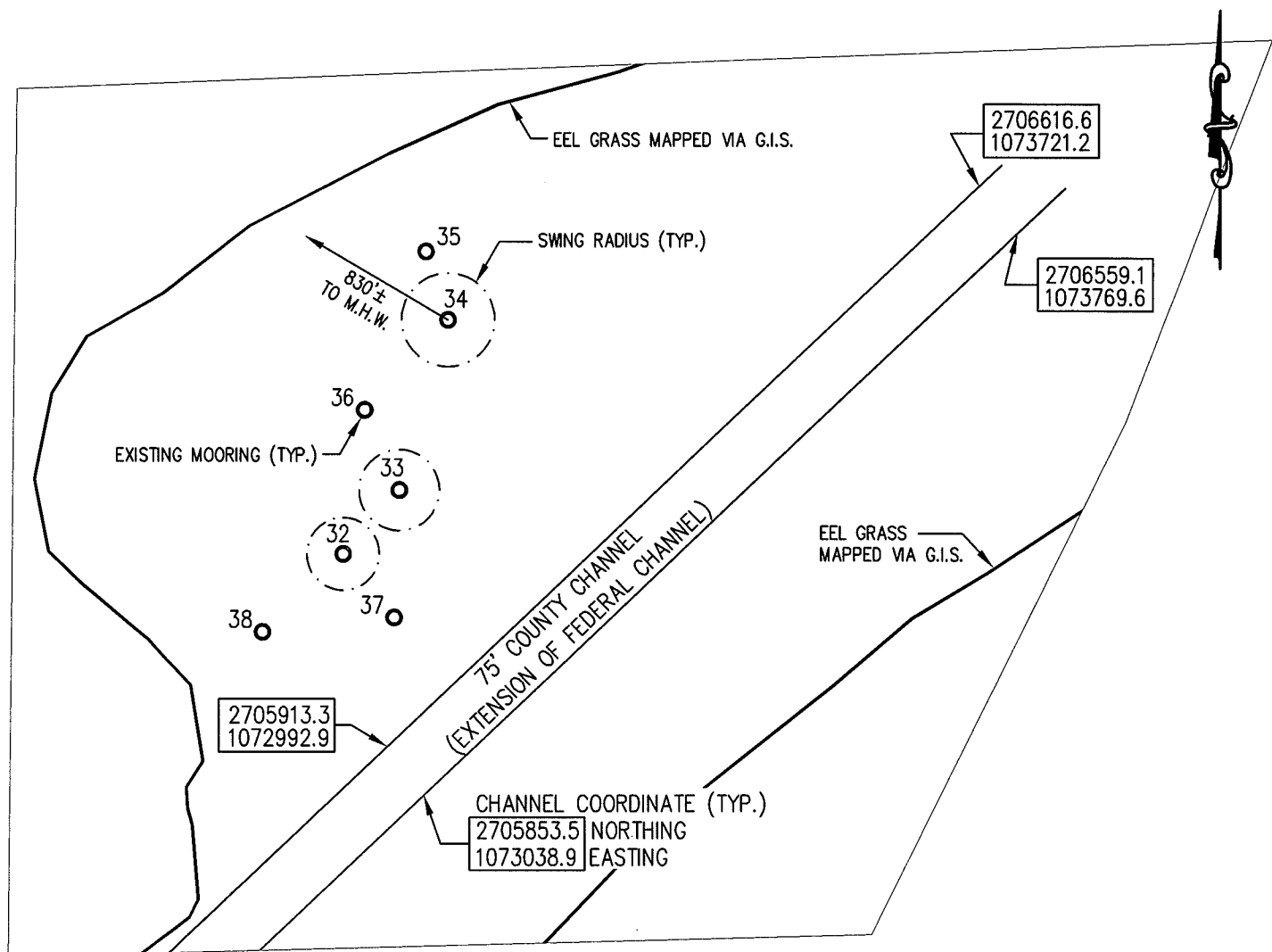
REVISED SEPTEMBER 24, 2008

MOORING PLAN AREA 1 (NORTH)

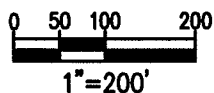
APPLICATION BY:
B.K. ENTERPRISES D.B.A
OYSTER RIVER BOATYARD
PREPARED BY
COASTAL ENGINEERING CO., INC.
260 CRANBERRY HIGHWAY
ORLEANS, MA 02653

JANUARY 11, 2008

SHEET 5 OF 11



PLAN



DRAWING C13768-c91.dwg
 DRAWN BY: KES
 C13768.00

REF: CHATHAM ASSESSOR'S MAP 10C, PARCEL 3

PURPOSE:
 TO MAINTAIN AN EXISTING MARINA
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REVISED SEPTEMBER 24, 2008

MOORING PLAN AREA 2

APPLICATION BY:
 B.K. ENTERPRISES D.B.A
 OYSTER RIVER BOATYARD
 PREPARED BY
 COASTAL ENGINEERING CO., INC.
 260 CRANBERRY HIGHWAY
 ORLEANS, MA 02653

JANUARY 11, 2008

SHEET 7 OF 11

MOORING TABLE

MOORING NUMBER	DESCRIPTION	NORTHING	EASTING	OWNER	ADDRESS
00	OR 4/3	2710459	1070618	NOT AVAILABLE FROM HARBOR MASTERS RECORDS	
01	CYB-032	2710418	1070606	CHATHAM YACHT BASIN	P.O.BOX 1248 W. CHATHAM, MA. 02669
02	ORBY 23	2710397	1070555	APPLICANT	
03	OR 3/03	2710513	1070515	RICHARD MALONEY	6 MARCO ROAD WILLINGTON, CT. 06279
04	OR 3-1	2710452	1070462	EVERETT ELDREDGE	29 BIRCH DR. HARWICH, MA. 02645
05	ORBY M/16	2710402	1070408	APPLICANT	
06	OR 4-1	2710360	1070502	MRS. JOAN MCCLELLAN	23 LAUREL LN. GREENWICH, CT. 06830
07	ORBY M-1	2710331	1070466	APPLICANT	
08	ORBY M/2	2710282	1070415	APPLICANT	
09	ORBY M/3	2710247	1070368	APPLICANT	
10	ORBY M/4	2710201	1070334	APPLICANT	
11	ORBY M/17	2710263	1070305	APPLICANT	
12	ORBY M/18	2710213	1070249	APPLICANT	
13	ORBY M/5	2710161	1070299	APPLICANT	
14	ORBY M/16	2710118	1070276	APPLICANT	
15	ORBY M/19	2710140	1070188	APPLICANT	
16	ORBY M/7	2710066	1070225	APPLICANT	
17	ORBY M/24	2710050	1070243	APPLICANT	
18	ORBY M/9	2710017	1070186	APPLICANT	
19	ORBY M/20	2710082	1070150	APPLICANT	
20	ORBY M/21	2710035	1070109	APPLICANT	
21	ORBY M/10	2709978	1070153	APPLICANT	
22	ORBY M/8	2709960	1070207	APPLICANT	
23	ORBY M/11	2709903	1070120	APPLICANT	
24	ORBY M/22	2709969	1070041	APPLICANT	
25	ORBY	2709851	1070098	APPLICANT	
26	ORBY M/12	2709872	1070065	APPLICANT	
27	OR 05/7	2709906	1069989	MICHAEL WATSON	555 SPARROWBUSH RD. WYCKOFF, NJ. 07481
28	ORBY M/13	2709801	1070022	APPLICANT	
29	ORBY M/14	2709758	1069992	APPLICANT	
30	ORBY M/15	2709709	1069945	APPLICANT	
31	OR 5-04	2709717	1069857	ANN & JOHN FECKE	1289 SE BREWSTER PLACE STUART, FL. 34997
32	ORBY SH 45	2706161	1072930	APPLICANT	
33	ORBY 2 - 42	2706239	1073000	APPLICANT	
34	ORBY 3 - 47	2706450	1073061	APPLICANT	
35	GABLE SH 7 - 141	2706535	1073033	JAMES GABLE	P.O.BOX 390 CHATHAM, MA. 02633
36	TOWN "P"	2706339	1072957	NOT AVAILABLE FROM HARBOR MASTERS RECORDS	
37	CASADY SH 7 - 12	2706082	1072993	JULIA & MARK CASADY	3 SUMMIT RD. WESTON, MA. 02493
38	WIESEL SH 7 - 147	2706064	1072830	GREGORY WIESEL	P.O.BOX 1262 W. CHATHAM, MA. 02669

COORDINATE SYSTEM USED IS NAD83 MASS
STATE PLANE (FEET)

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MOORING COORDINATES

APPLICATION BY:
B.K. ENTERPRISES D.B.A
OYSTER RIVER BOATYARD
PREPARED BY
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260 CRANBERRY HIGHWAY
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JANUARY 11, 2008 SHEET 8 OF 11

MOORING SCHEDULE

MOORING AREA 1

<u>MOORING SIZE</u>	<u>MOORING TYPE</u>	<u>EX. QTY.</u>	<u>MAX. BOAT LENGTH</u>	<u>SWING RADIUS (FT.)</u>
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2000 LB	CONCRETE BLOCK	17	4' X 20' FLOAT	30
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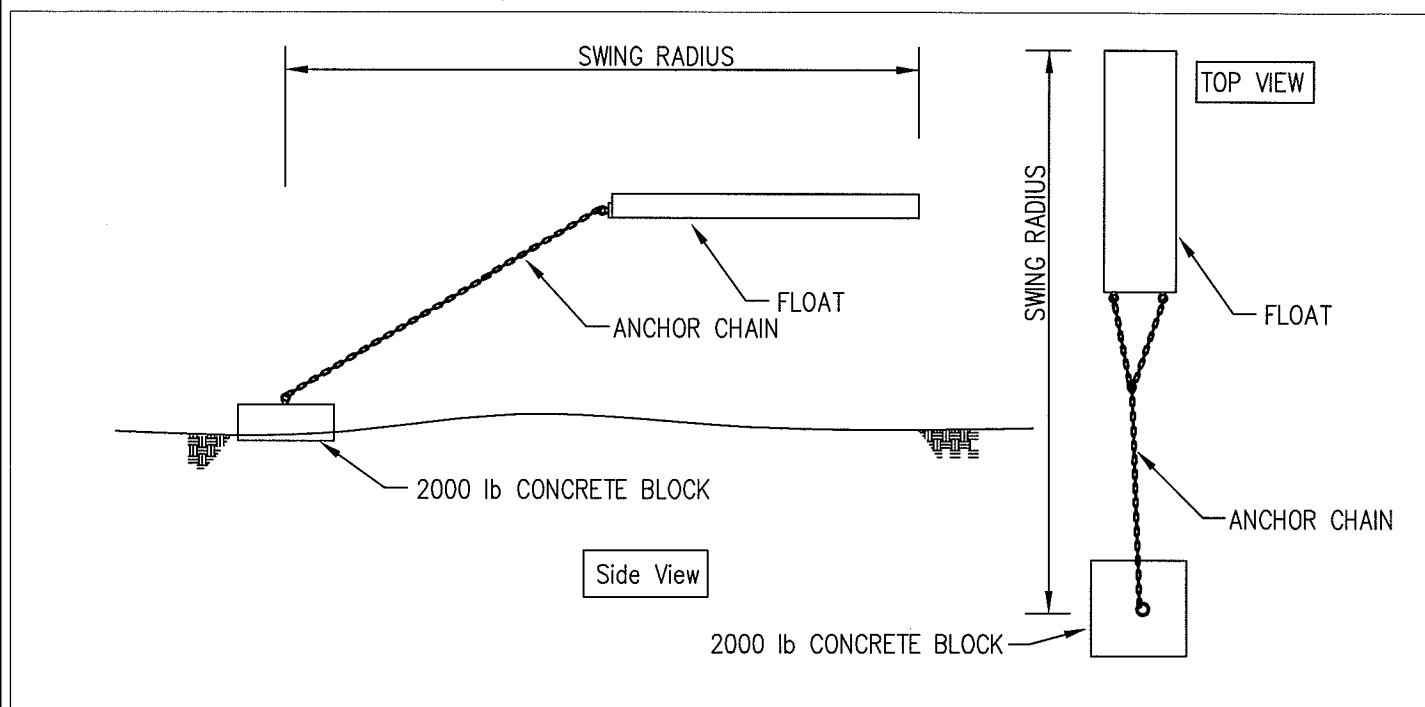
2000 LB	CONCRETE BLOCK	7	4' X 24' FLOAT	34
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MOORINGS 2, 5, 11, 19, 24, 29 AND 30 HAVE 4' X 24' FLOAT

MOORING 25 HAS NO FLOAT, BOUY ONLY

ALL OTHERS HAVE 4' X 20' FLOATS

TOTAL = 25 MOORINGS



TYPICAL MOORING CONFIGURATION

MOORING AREA 1

NOT TO SCALE

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C13768.00

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MOORING DETAIL AREA 1

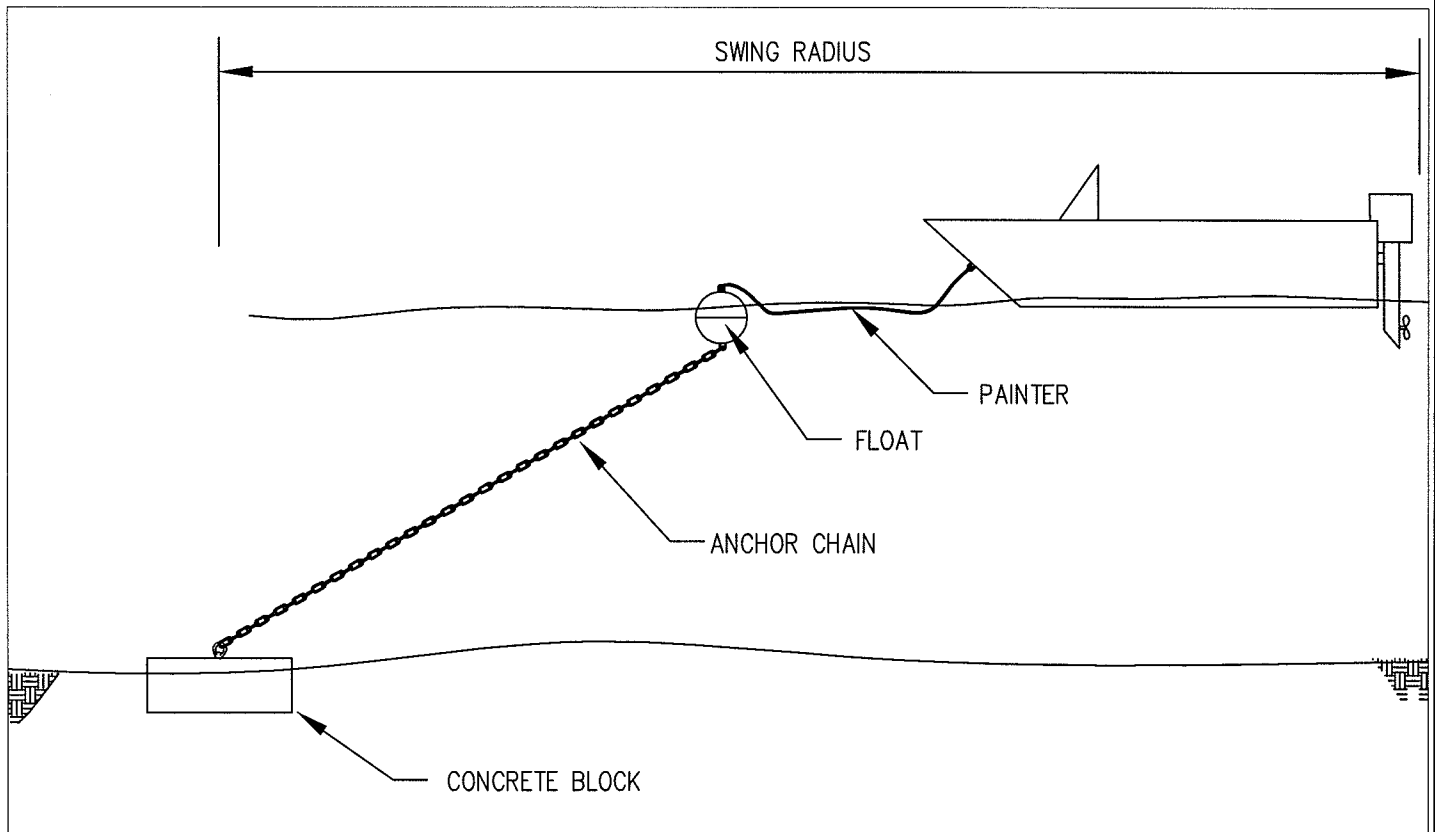
APPLICATION BY:
B.K. ENTERPRISES D.B.A
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PREPARED BY
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260 CRANBERRY HIGHWAY
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JANUARY 11, 2008 SHEET 10 OF 11

MOORING SCHEDULE
MOORING AREA 2

<u>MOORING SIZE</u>	<u>MOORING TYPE</u>	<u>EX. QTY.</u>	<u>MAX. BOAT LENGTH</u>	<u>SWING RADIUS (FT.)</u>
2000 LB	CONCRETE BLOCK	1	27	45
3000 LB	CONCRETE BLOCK	1	30	50
4000 LB	CONCRETE BLOCK	1	40	58

TOTAL = 3



TYPICAL MOORING CONFIGURATION
MOORING AREA 2

NOT TO SCALE

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**MOORING DETAIL
AREA 2**

APPLICATION BY:
B.K. ENTERPRISES D.B.A
OYSTER RIVER BOATYARD
PREPARED BY
COASTAL ENGINEERING CO., INC.
260 CRANBERRY HIGHWAY
ORLEANS, MA 02653

~~JANUARY 11, 2008~~ SHEET 11 OF 11